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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

4   Robert Ward Marin,

5   Plaintiff
           v.

6   Nevada Department of Corrections,

7   Defendant

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Case No. 3:20-cv-00404-JAD-CLB

**Order Dismissing
and Closing Case**

ECF Nos. 4, 5, 6, 7 & 8

9   Plaintiff Robert Ward Marin brings this civil-rights lawsuit to redress constitutional

10   violations that he claims he suffered while incarcerated at Northern Nevada Correctional Center.

11   On July 6, 2020, this Court ordered the plaintiff to either pay the $400 filing fee or file a

12   complete *in forma pauperis* application by September 4, 2020.[1] That deadline expired without a

13   new fully complete application or payment of the filing fee.

14   District courts have the inherent power to control their dockets and "[i]n the exercise of

15   that power, they may impose sanctions including, where appropriate . . . dismissal" of a case.[2] A

16   court may dismiss an action based on a party's failure to prosecute an action, failure to obey a

17   court order, or failure to comply with local rules.[3] In determining whether to dismiss an action

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[1] ECF No. 3.

20   [2] *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

21   [3] *See Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with
     local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to
22   comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–
     41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to
23   keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.
     1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
     1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

1 on one of these grounds, the court must consider: (1) the public's interest in expeditious

2 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the

3 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the

4 availability of less drastic alternatives.[4]

5   The first two factors, the public's interest in expeditiously resolving this litigation and the

6 court's interest in managing its docket, weigh in favor of dismissal of the plaintiff's claims. The

7 third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a

8 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading

9 ordered by the court or prosecuting an action.[5] A court's warning to a party that its failure to

10 obey the court's order will result in dismissal satisfies the fifth factor's "consideration of

11 alternatives" requirement,[6] and that warning was given here.[7] The fourth factor—the public

12 policy favoring disposition of cases on their merits—is greatly outweighed by the factors

13 favoring dismissal.

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21 [4] *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

22 [5] *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

23 [6] *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

[7] ECF No 3 at 3.

IT IS THEREFORE ORDERED that **THIS ACTION IS DISMISSED** without prejudice based on the plaintiff's failure to file a new fully complete application to proceed *in forma pauperis* or pay the filing fee as ordered. The Clerk of Court is directed to **ENTER JUDGMENT** accordingly and **CLOSE THIS CASE**. **No other documents may be filed in this now-closed case.** If Robert Ward Marin wishes to pursue his claims, he must file a complaint in a <u>new</u> case, and he must either pay the $400 filing fee or file a complete *in forma pauperis* application in that new case.

IT IS FURTHER ORDERED that plaintiff's filings at ECF Nos. 4, 5, 6, 7, and 8 are denied as moot.

Dated: September 15, 2020

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U.S. District Judge Jennifer A. Dorsey

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